IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 8814 of 2004

Between:

M/s. Lakshmi Industries a Proprietory Concern, Opp. to

Engineer College, Kakinada, rep. by its Proprietor, Kangu

Victor Raja Ratnam, S/o. Suryanarayana Murthy, Christian,

aged 46 years, Male, Small Scale Industries, R/o. 67-20-

1/13, Andhra Bank Apts., Lal Bhadur Nagar Kakinada,

East Godavari District.

..... PETITIONER

AND

1 The Salaried Employees Co-operative House Building Society

Limited registered No. C-725, D.No. 64-6/2,
A. Atchythapuram, Kakinada- 533 004, S/o. Jangarao,

aged 54 yrs., S. Atchyuthapuram, Kakinada,
East Godavari District.

2 The Land Grabbing Tribunal, Kakinada, III Additional District

Judge, Kakinada. East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction more particularly one in the nature of writ of Certiorari calling upon the record from the file of 2nd respondent in L.G.O.P. No. 279/98 from the file of the Land Grabbing Tribunal/III Additional District Judge,

Kakinada, East Godavari District and quash the impugned order, dated 9.01.2004 insofar as and to the extent of the 100 sq. yards of site situated in Ward No.1, Block No.67, Nagamalli Thota Area, Lal Bhadhur Opp. To Engineer college, Kakinada, East Godavari Dist, wherein Laxmi Industries, a small scale Industry is existing or to pass any other order or orders in the interest of justice.

For the Petitioner: Smt. N.(P).ANJANA DEVI, SATYANARAYANA, Advocate.

For Respondent No.1: Mr. E.V.V.S. Ravi Kumar, Advocate.

For Respondent No.2: None appeared.

The Court made the following Order: (per Sri B. Sudershan Reddy, J)

Admittedly, an appeal against the impugned order lies to the Special Court constituted under the very provisions of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982. It shall always be open to the petitioner to raise all the pleas that have been raised in this writ petition before the Special Court. There are no legal impediments for raising such pleas in the special Court. Sub-Section (3) of Section 7-A declares that an appeal shall lie, from any judgment or order not being interlocutory order of the Special Tribunal, to the Special Court on any question of law or of fact. Admittedly, the impugned order passed by the Special Tribunal is not an interlocutory order. It is a final order determining the rights of the parties.

We are not inclined to accept the plea taken by the petitioner for bypassing the statutory right of appeal, which in our considered opinion, is a very valuable one conferred upon any aggrieved person by the decision of the Special Court. The writ petition deserves dismissal on the simple ground of availability of an alternative remedy. We do not intend to say that this Court has no jurisdiction to entertain the writ petition but the question is one of exercise of jurisdiction.

For the aforesaid reasons, this writ petition shall stand dismissed leaving it open to the petitioner to file an appeal, if it so chooses against the impugned order, in which event the matter shall be considered on its own merits. The application to be filed by the petitioner along with the appeal seeking condonation of delay shall be considered by the Special Court by duly taking into account the fact that the petitioner instead of filing the appeal had filed the writ petition in this Court against the impugned order which is pending in this Court. We are sure that the Special Court will take a proper and appropriate view in considering the application to

condone the delay in filing the appeal.

(B. Sudershan Reddy, J)

27..08..2004

(K.C. Bhanu, J)

ks

Note: Furnish copy of the order by Monday.

B/O

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 The Land Grabbing Tribunal, Kakinada, III Additional District

Judge, Kakinada. East Godavari District.

2 Two CD copies.